

BOARD OF PERSONNEL APPEALS

MINUTES - JULY 26, 2007 MEETING

PRESENT:

Jack Holstrom, Presiding Officer
Steve Johnson
Alice Whiteman
Jay Reardon
Alan Audet

STAFF ATTENDING:

Brian Hopkins, Board Attorney
Tonya McCormack
John Andrew

BOARD BUSINESS

APPROVAL OF MINUTES:

Member Audet moved to adopt the minutes of the December 5, 2006, conference call. The motion was seconded by member Whiteman. The motion was approved unanimously.

Member Johnson moved to adopt the updated minutes of the June 28, 2007, meeting. Member Whiteman seconded the motion and it passed unanimously.

NEXT MEETING DATE:

No cases are pending for the August 23, 2007, meeting date so that date will be cancelled. The next date is to be September 21, 2007, in conjunction with the annual labor and arbitration conference and further dependent on whether there are pending appeals.

MISCELLANEOUS:

Brian reported that a draft rule on findings of no merit was under internal review and would be presented at a later date.

The new Labor Mediator, Raymond Berg was introduced to the Board.

Public Comments (House Bill 94):

No comments were received.

ORAL ARGUMENTS

UNFAIR LABOR PRACTICE CHARGE NO. 38-2005 (2180-2005)

WIBAUX EDUCATION ASSOCIATION, MEA-MFT, NEA, AFT, AFL-CIO, COMPLAINANT VS

WIBAUX BOARD OF TRUSTEES, K-12 SCHOOLS, DISTRICT NO. 6, DEFENDANT:

Tony Koenig, attorney for the Wibaux Board of Trustees and Richard Larson, attorney for the Wibaux Education Association, presented oral argument in person. The Board discussed the case in light of the earlier district court ruling involving the Bonner School District and determined that there was no bar from deliberating on the case. Discussion further

centered around the need for the Board to continue to recognize its established precedent and the value that precedent brought to labor and management alike. Additional discussion ensued on the value of recognizing the role of the Board in balancing the management rights of employers with the right of public employees to bargain collectively. A motion was made by member Reardon to adopt the recommended findings of fact, conclusions and order of the hearing officer. The motion was seconded by member Audet and passed with members Whiteman, Audet, Reardon and Chair Holstrom voting aye. Member Johnson voted nay.

UNFAIR LABOR PRACTICE CHARGE NO. 1-2007
FRAZER EDUCATION ASSOCIATION, MEA-MFT VS
FRAZER BOARD OF TRUSTEES

Richard Larson, attorney for the Frazer Education Association presented oral argument in person and Michael Dahlem, attorney for the Frazer Board of Trustees, presented oral argument via telephone conference call. The Board discussed the implications of 39-31-307 MCA on a declaration of impasse by the parties given the mandatory charge of the statute. The Board agreed that the matter was not adequately placed before the hearing officer and that more needed to be done at the hearing officer level before considered by the Board. Member Reardon moved that the matter be remanded to determine whether mediation must be requested pursuant to 39-31-307 MCA before impasse can be declared. Member Audet seconded the motion and it passed unanimously.